

7.1.0.2 HEIGHT LIMITS

No restrictions, except as regulated in the Military Overlay District.

7.1.0.3 YARDS

(1) Side Yard

The side yard width shall not be less than six (6) feet.

(2) Front Yard

The front yard shall not have a depth of less than thirty (30) feet.

(3) Rear Yard

The rear yard depth shall not be less than ten (10) feet.

(4) Side Street and Corner Yard Transitions

See Section 8.3.4

(5) Streamside Setback

The streamside setback shall be no less than fifty (50) feet.

7.1.0.4 LOT COVERAGE

The percentage of lot area covered by main building and accessory building ground floor area shall be within the below listed limits.

(1) RR-5, SR-1 and SR-2 Districts

All buildings including accessory buildings shall not cover more than thirty-five percent (35%) of an interior lot or more than forty percent (40%) of a corner lot.

(2) UR Districts

All buildings in a UR District including accessory buildings shall not cover more than forty percent (40%) of an interior lot or more than fifty percent (50%) of a corner lot.

7.1.0.5 REQUIRED COURT DIMENSIONS

All multi-family dwellings shall have the following court dimensions: the width of any outer court upon which windows from a living room, bedroom, or dining room open, shall not be less than the height of any opposing wall forming said court.

7.1.0.6 OFF STREET PARKING AS REQUIRED IN SECTION 8.4

9.4 MINOR VARIANCES

The Zoning Administrator shall have the authority to grant "minor variances" as defined by the Zoning Board of Adjustment which are within the general intent of these regulations limited to the following: a) area and lot dimension requirements provided they may not be reduced by more than ten (10) percent of the area required by the district, b) yard requirements may be reduced by permitting portions of a building or structure to extend into and occupy not more than ten (10) percent of the area of a required yard, c) maximum building height requirements may be increased by not more than ten (10) percent. Said "minor variance" shall be granted if all adjacent property owners of the tract consent to said "minor variance." The party petitioning to the "minor variance" shall obtain written consent from the adjacent property owners to the "minor variance." The denial by the Zoning Officer of an application involving a minor deviation shall not prohibit or affect the right of the applicant to file an application for a variance.

9.5 VARIANCES

9.5.1 APPLICATION AND REVIEW PROCEDURE FOR VARIANCES THAT DO NOT RELATE TO THE SUBDIVISION REGULATIONS

- (1) **Submittal of application.** The applicant shall submit a completed application to the County Planning Division along with the application / appeal fee (**\$250**) as may be established by the County Commission.
- (2) **Determination of completeness.** Within 10 working days of submittal, the Planning Director shall determine if the application is complete. If the application is deemed incomplete, it shall be returned to the applicant and the applicant has 6 months to resubmit the application or forfeit the application fee. The director shall take no further steps to process the application until the deficiencies are remedied
- (3) **Notice.** Consistent with Section 12 of these regulations, the director shall provide for public notice, property owner notification, and agency notification, when applicable. If a variance is requested for Military Overlay District height regulations, a copy of the application will be sent to Malmstrom for review and comments. Any comments or recommended mitigations will be forwarded to the Zoning Board of Adjustment to consider with their decision. If no comments are received within 15 working days, it will be determined Malmstrom's reviewing staff had no objections. A height variance may only be denied due to a concern expressed by the US Military that cannot be mitigated to the Military's satisfaction.
- (4) **Staff report.** The director shall prepare a written staff report as described in this article and mail it to each member of the Zoning Board of Adjustment, the applicant, and the applicant's agent, if

any, no later than 3 days prior to the public hearing. He/she shall also provide a copy to interested people upon request.

- (5) **DNRC notification of application.** If the variance is related to the floodplain regulations, the floodplain administrator shall send a copy of the application to the Montana Department of Natural Resources and Conservation, Floodplain Management Section.
- (6) **Public hearing.** Allowing for proper notice, the Zoning Board of Adjustment shall hold a public hearing to review the application.
- (7) **Decision.** Within 30 days of the determination of completeness, the Zoning Board of Adjustment shall approve the application, approve it with conditions, or deny it. Such decision shall be in writing and shall include the findings in support of its decision and if approved any conditions as may be imposed.
- (8) **DNRC notification of decision.** If the variance is related to the floodplain regulations, the floodplain administrator shall send a copy of the decision to the Montana Department of Natural Resources and Conservation, Floodplain Management Section.
- (9) **Applicant notification.** Within 5 days following the decision, the director shall mail the applicant the original (signed) copy of the decision and retain a copy for the public record.
- (10) **Additional procedural steps.** If the Board grants the variance, the applicant shall then follow other review procedures as may be required.

9.5.2 BASIS OF DECISION FOR A DIMENSIONAL VARIANCE

A dimensional variance shall only be granted when the evidence shows and a finding can be made that each of the following conditions exists:

- (1) The variance is not contrary to the public interest.
- (2) A literal enforcement would result in unnecessary hardship, owing to conditions unique to the property.
- (3) The spirit of this Section would be observed and substantial justice done by granting the variance.

9.5.3 ADDITIONAL FINDINGS NECESSARY FOR A FLOODPLAIN VARIANCE

In addition to the general findings required above, the following findings shall apply to variances from floodplain requirements:

- (1) The proposed use will be adequately flood-proofed.
- (2) A reasonable alternate location outside the floodplain is not available.
- (3) The granting of the variance will not cause increased flood hazards, present additional threats to public safety, create an extraordinary public expense, create a nuisance, or otherwise conflict with federal, State, or other local laws.

9.5.4 VOTE NEEDED FOR ZONING BOARD OF ADJUSTMENT ACTION

The concurring vote of 3 members shall be necessary to approve a variance. (MCA)76-2-224.

9.5.5 LIMITATIONS ON ISSUING A VARIANCE

The following actions shall not be allowed by a variance:

- (1) Expansion of a nonconforming use.
- (2) Modification to lot or other requirements so as to increase the permitted density or intensity of use.
- (3) Any project within a floodway that increases flood velocities or elevations.
- (4) Allow an amortized sign to continue.

9.5.6 IMPOSITION OF CONDITIONS

In approving a variance, the Zoning Board of Adjustment may impose such conditions and restriction as may be necessary to grant approval.

9.5.7 AIRPORT HEIGHT VARIANCES

If a variance to the height restrictions for parcels in the vicinity of the Great Falls International Airport is granted, the County may require the applicant, at the applicant's expense, to install, operate, and maintain the lights and markers necessary to warn pilots of the presence of an airport hazard. (MCA) 67-4-314.

9.5.8 NOTIFICATIONS REGARDING SPECIFIED VARIANCES

If a variance is granted to allow construction of a structure below the 100-year floodplain elevation, the floodplain administrator shall notify the applicant that flood insurance premium rates may be higher than normal and such construction increases risks to life and property.

9.5.9 STAFF REPORT CONTENT

At a minimum, the staff report shall contain the following information:

- (1) A summary of the comments received from the interdepartmental/agency review.
- (2) Findings for each of the decision criteria listed in this article.
- (3) A preliminary list of conditions if approval is recommended; and
- (4) A recommendation to approve the application, approve it with conditions, or deny the application.

9.5.10 EFFECT OF APPROVAL

An approved variance merely sets aside the rule or regulation from which relief is sought. All other rules and regulations not part of the variance decision must be followed.

9.5.11 EXPIRATION OF APPROVAL

The variance shall expire one year after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion.

9.5.12 APPEAL

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this section by filing an appeal with a court of competent jurisdiction within 30 days of the final decision. (MCA) 76-2-227 (1).